

### **Remarks**

Applicant respectfully requests that this Amendment After Final Action be admitted under 37 C.F.R. § 1.116.

Applicant submits that this Amendment presents claims in better form for consideration on appeal. Furthermore, applicant believes that consideration of this Amendment could lead to favorable action that would remove one or more issues for appeal.

Claims 1 and 26 have been amended. No claims have been canceled. Therefore, claims 1-9, 26 and 27 are now presented for examination.

A replacement Figure 1 is submitted herewith.

Claims 1-3 and 7-9 and 26-27 stand rejected under 35 U.S.C. §102(b) as being anticipated by Alastalo et al. (U.S. Pub. No. 2001/0047424). Further, claims 4-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Alastalo et al. Applicant submits that the present claims are patentable over Alastalo.

Alastalo discloses a method for arranging communication between terminals (MT1-MT4) and an access point (AP1, AP2) in a communication system (1) applying data transmission frames (FR). The data frames (FR) comprise at least uplink time slots (UL) for performing data transmission from the terminals (MT1-MT4) to the access point (AP1, AP2), and downlink time slots (DL) for performing data transmission from the access point (AP1, AP2) to the terminals (MT1-MT4) via a wireless communication channel. In the method, the terminals (MT1-MT4) can be allocated one or more time slots (702-707, 802-807) of said frames. In the method, the spatial signature of at least said two terminals (MT1-MT4) is determined, and in at least part of said frames (FR), at

least partly simultaneous time slots (704-707, 802-804) are allocated to at least two terminals (MT1-MT4). In the method, measurements are also taken to estimate the timing and frequency offsets and the properties of the communication channel, which measurements are taken at least partly on the basis of a signal transmitted by the terminal (MT1) to the access point (AP1, AP2), wherein the results of said measurements are used to select the terminals (MT1-MT4) to which simultaneous time slots (702-707, 802-807) are to be allocated. During said measurements, the other terminals (MT1-MT4) communicating with the access point (AP1, AP2) do not transmit a signal to said access point (AP1, AP2). See Alastalo at Abstract.

Claim 1 of the present application recites:

A device, comprising:  
a scheduler in an access point to schedule variable length packets for transmission based on transmission times to transmit on each of M spatial channels to mobile stations by filling the M spatial channels for traffic on M stations at a time instant,  
where M is a constant less than or equal to a number of antennas at the access point.

Applicant submits that Alastalo does not disclose or suggest a process of scheduling variable length packets for transmission based on transmission times to transmit on each of M spatial channels. Particularly, there is no suggestion of *scheduling variable length packets*. Therefore, claim 1 and its dependent claims are patentable over Alastalo.

Claim 26 includes limitations similar to those recited in claim 26. Thus, claim 26 and its dependent claims are patentable over Alastalo for reasons similar to those discussed above with regard to claim 1.

Applicant submits that the rejections have been overcome, and that the claims are in condition for allowance. Accordingly, applicant respectfully requests the rejections be withdrawn and the claims be allowed.

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP



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